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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,051	06/20/2003	Thomas N. Chalin	WCMI-0036	5857
20558	7590	05/26/2010		
SMITH IP SERVICES, P.C. P.O. Box 997 Rockwall, TX 75087			EXAMINER FLEMING, FAYE M	
			ART UNIT 3616	PAPER NUMBER
			NOTIFICATION DATE 05/26/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mail@smithipservices.com  
scrawford@smithipservices.com  
sally@smithipservices.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/600,051	CHALIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Faye M. Fleming	3616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,6,7,9,29,30,37-41,44,46,49,52 and 53 is/are pending in the application.
- 4a) Of the above claim(s) 3-5,12-28,31-36,42,43,45,48,50 and 51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6,7,9,29,30,37-41,44,46,49,52 and 53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 6, 7, 9, 29, 30, 37-41, 44, 46, 49, 52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galazin, et al. (2005/0051986) in view of Obeshaw (6,893,733).

Galazin teaches a suspension system for a vehicle having a frame, the suspension system comprising an axle 22; beam 62 interconnected between the vehicle frame and the axle, the beam having opposite ends, an elongated body extending between the opposite ends. The end connection is a frame pivot connection. The suspension system has a cross-section with at least two flanges 74 and a web 70 extending between the flanges. The suspension system connection is a frame pivot connection. The end connection is received internally in the body. The flanges wrap outwardly about the axle end connection. The end connection is received internally in the body. As shown in figure 2, a sleeve 60 and a body coupling structure are integrally formed wherein the sleeve encircles a bushing 52.

Galazin teaches the claimed invention except for a metal end connection and the body and the axle being made of a composite material. Obeshaw discloses a structural member comprising sections made of different materials such as metals and composite materials (see the claims) wherein the process for making the structure includes any processes known in the art

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(see col. 12, lines 42-45). Obeshaw discloses structural members, having numerous uses (see col. 18, lines 4-16), made of a composite material including a matrix material and a reinforcement material. The reinforcement material is carbon fiber and the matrix material is epoxy resin. Further, Obeshaw teaches a modified contoured crushable structural member such as a steering column made of a composite material, however Obeshaw also teaches composite materials are used in today's vehicles to make structural members; therefore it would have been obvious to one having ordinary skill in the art at time the invention was made to modify the system of Galazin to be made of a metal for sufficient strength and a composite material to decrease the weight of the vehicle to improve fuel efficiency.

### ***Response to Arguments***

3. Applicant's arguments filed February 14, 2010 have been fully considered but they are not persuasive. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Regarding the Applicants arguments that Galazin teaching the trailing arm is fabricated using generally conventional casting methods, the examiner notes using conventional casting methods does not preclude that other methods cannot be used and using a specific method is a

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mere design choice and it would not change the function of the device. In response to the Applicant's arguments that the composite shapes taught by Obeshaw are closed and tubular shapes with triangular, rectangular, hexagonal, octagonal, polygonal, elliptical, and circular cross-sections and not I-beams, the examiner notes the composite shapes taught by Obeshaw are not relied on by the examiner for propose of an I-beam but rather as structural members made of composite material. The applicant argues that Galazin advocates a one-piece design and specifically teaches away from assembling a trailing arm from individual components. With respect to the one-piece design, Galazin is referring to the bushing sleeve, trailing arm, air spring seat and the axle seat cast together as one-piece rather than being welded together. The beam (i.e. the bushing sleeve, trailing arm, air spring seat and the axle seat) being made of a composite material would be of one-piece because the composites are formed together and the entire beam would consist of the same material.

In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, Galazin disclosed the weight of the trailing arm is reduced because of reduced material resulting in a unitary beam rather than decreasing the weight of the trailing arm

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because of a specific material being used. Further, the examiner maintains the rejection is proper.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye M. Fleming whose telephone number is (571) 272-6672. The examiner can normally be reached on M-F (9:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Faye M. Fleming/  
Primary Examiner, Art Unit 3616